

**INSPECTOR GENERAL
PUBLICATIONS SYSTEM TRANSMITTAL**

NUMBER	TITLE	DATE
IGDINST 1440.1	Equal Employment Opportunity Program	AUG 10 1995

ATTACHMENTS

IGDINST 1440.1, "Equal Employment Opportunity Program".

INSTRUCTIONS FOR RECIPIENTS.

A. The enclosed Instruction has been updated to reflect minor administrative changes and update Appendix C to include the Inspector General's "Policy Statement on Sexual Harassment," March 14, 1995.

B. Administrative changes are indicated by marginal asterisks.


Eleanor Hill
Inspector General

Enclosure

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT.



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

August 10, 1995

INSPECTOR GENERAL INSTRUCTION 1440.1

SUBJECT: Equal Employment Opportunity Program

References: See Appendix A.

A. **Purpose**

1. This Instruction establishes the policies, responsibilities and procedures for the Equal Employment Opportunity (EEO) Program within the Office of the Inspector General, Department of Defense (OIG, DoD). The three main elements of the program are affirmative action, the special emphasis programs and the discrimination complaints process. (The policies, procedures and responsibilities for the OIG, DoD, discrimination complaints process are contained in Inspector General Instruction 1020.1, *Processing Complaints of Discrimination* [reference a].)

2. This Instruction authorizes, as integral positions in the EEO Program, the establishment of the Director of Equal Employment Opportunity, other EEO officials, the Special Emphasis Program managers and the EEO counselors.

B. Cancellation. IGDINST 1440.1, *Equal Employment Opportunity Program*, February 24, 1994, is hereby canceled.

C. Applicability. This Instruction applies to all civilian employees, supervisors of civilian employees and civilian applicants seeking employment with the OIG, DoD. It does not apply to military personnel for whom equal opportunity is covered by Department of Defense Directive 1350.1, "The Department of Defense Military Equal Opportunity Program" (reference g).

D. Definitions. See Appendix B.

E. **Agency Program**

1. The Equal Employment Opportunity Program for the OIG, DoD, will encompass all the basic elements set forth in 29 Code of Federal Regulations (CFR) 1614. The elements include managerial and supervisory support, affirmative action planning, eradication of discrimination, maximum use of employee skills, upward mobility, recruitment efforts, recognition of accomplishments, information to employees, counseling services, disposition of complaints, reasonable accommodations, and program evaluation.

2. Executive Order 11478, Public Law 92-261 and 29 CFR 1614, Subpart B, direct that a continuing affirmative action program of equal opportunity be established and maintained as an integral part of Federal personnel management policy and practice in the employment, development, advancement, and treatment of employees.

3. Employees will be accorded prompt, fair, and impartial review of complaints of discrimination through pre-complaint counseling and formal complaint processing, as provided in Executive Order 11478, Public Laws 92-261, 93-259 and CFR 1614. Specific instructions for processing discrimination complaints are contained in Inspector General Instruction 1020.1, *Processing Complaints of Discrimination* (reference a).

F. Policies. It is OIG, DoD, policy to:

1. Prohibit discrimination based on race, color, religion, sex, national origin, mental/physical disability, age, or reprisal.

2. Recognize the EEO Program as an essential element of readiness that is vital to the accomplishment of the OIG, DoD, mission.

3. Develop and implement affirmative action programs to achieve the objective of a civilian work force in which the representation of minorities, women, disabled veterans and other people with disabilities at all grade levels, in every occupational series, and in every major organizational element is commensurate with the representation and guidelines specified by the Equal Employment Opportunity Commission (EEOC), Office of Personnel Management (OPM) and DoD.

4. Ensure that EEO Program policies, practices and procedures are integrated fully in the civilian personnel management system.

5. Eliminate barriers and practices that impede equal employment opportunity for all OIG, DoD, employees and applicants for employment.

6. Accommodate an employee's religious practice unless doing so causes undue hardship on the OIG, DoD, mission.

G. Responsibilities. Responsibility for all aspects of the EEO Program extends from the Inspector General (IG) through the OIG Component Heads, to all supervisors and employees, and through EEO and personnel officials at all levels. Specific responsibilities are shown below.

1. The **Inspector General** will:

(a) Provide overall leadership to the Director, EEO, through implementation of a continuing affirmative program designed to promote equal opportunity in every aspect of the agency's policies and practices.

(b) Designate a Director, EEO, and ensure that sufficient resources are provided to the EEO Program.

(c) Issue policy statements that express his/her expectations, are widely disseminated, understood and implemented.

(d) Establish Special Emphasis Programs (SEP) and appoint SEP Managers (SEPM) to include: Federal Women's Program Manager, Hispanic Employment Program Manager, Black Employment Program Manager, Asian American Employment Program Manager, Native American

Employment Program Manager and Disabilities Program Manager. At his/her discretion, other SEPMs may be designated.

(e) Require that EEO be included in critical elements in the performance appraisals of all supervisors and other personnel with EEO responsibilities.

(f) Set realistic goals and motivate AIGs to set and meet their own goals until overall OIG, DoD, goals are met and sustained.

(g) Be the final decision authority for the agency on formal complaints of discrimination.

(h) Approve and implement the Agency's affirmative employment program plans.

2. The OIG Component Heads will:

(a) Under the leadership of the Inspector General and with the advice and assistance of the Director, EEO, and Director of Personnel and Security Directorate (PSD), ensure that minorities, women, and individuals with disabilities receive full and fair consideration in all aspects of civilian employment, at all grade levels and occupations, and with special emphasis on mid-level and executive-level jobs.

(b) Ensure that EEO policies are disseminated widely and that they are understood and implemented at all levels within their function.

(c) Actively support and promote the OIG, DoD, program and remain informed of, and sensitive to, the equal opportunity impact of employment decisions made in his/her respective areas of responsibility.

(d) Ensure that they and their employees comply with EEOC, OPM, DoD, and OIG policies and guidance on the Federal EEO Program.

(e) Treat EEO and affirmative action programs as essential elements of management that are vital to accomplishment of the mission of the OIG, DoD.

(f) Implement, as appropriate, objectives and programs developed as part of the OIG, DoD, affirmative action plans.

3. The **Director, EEO**, as designated by the Inspector General, will:

(a) Administer the Agency's EEO Program.

(b) Represent the IG in matters related to the EEO Program.

(c) Develop policy and provide oversight for the EEO Program.

(d) Develop, coordinate and monitor the progress of affirmative employment program plan objectives and advise the IG on matters relating to the EEO Program.

(e) Ensure that realistic goals are set and accomplished until the overall IG objective is met and sustained. Such goals will seek continuing increases in the percentages of minorities, women and individuals with disabilities in entry and middle-level positions, and will specifically target such increases in higher grade positions in all functions and occupations.

(f) Establish SEPs as indicated in paragraph G.1.(d), above.

(g) Evaluate employment policies, practices and patterns within the OIG, DoD, and identify and correct any institutional barriers that restrict opportunities for recruitment, employment, advancement, awards or training for minorities, women and individuals with disabilities, and ensure that the Director, EEO, and the Director, P&SD, provide leadership in eliminating such barriers.

(h) Ensure that minorities, women and individuals with disabilities receive full and fair consideration for employment in all grade levels, occupations and functions.

(i) In coordination with the Director, PSD, establish upward mobility and other developmental programs to provide career enhancement for minorities, women and individuals with disabilities.

(j) Provide EEO Program advice and assistance to the IG, Deputy IG, OIG Component Heads, supervisors and employees.

(k) Provide guidance, policy direction, and oversight to the SEPMs and the EEO counselors.

(l) Ensure that surveys are conducted to identify the architectural barriers that impede individuals with disabilities.

(m) Establish an EEO Awards Program to recognize individuals and functional units for outstanding EEO achievements.

(n) Develop and present training modules or arrange for training on the various aspects of the EEO Program.

(o) Develop, implement and conduct EEO-related training.

4. The **Director, PSD, Office of Administration and Information Management (OA&IM)**, will:

a. Develop and implement the following:

(1) The Federal Equal Opportunity Recruitment Plan (FEORP) for minorities, women, and individuals with disabilities.

(2) Career development opportunities, such as upward mobility programs in coordination with the Director, EEO.

b. Compile data for OIG affirmative action plans and other EEO Program special analyses and reports.

c. Identify and develop strategies for the removal of employment barriers to affirmative action in the civilian personnel management system.

5. **Supervisors** will:

a. Create and maintain a positive work environment that recognizes the needs and expectations of a diverse working population and balance the needs and expectations with the mission and goals of the OIG, DoD.

b. Use and develop the skills of their employees to allow everyone the equal opportunity to succeed based on personal accomplishments.

c. Provide opportunities for employees to enhance their skills through on-the-job training, work/study programs, and other job-related training and opportunities so they may perform at their highest level of ability and advance in accordance with their performance, ability and potential.

d. Review and evaluate the performance of their subordinates in terms of compliance with EEO and personnel policies, recognizing special achievements and correcting deficiencies.

6. Working With the Director, EEO, and the Director, PSD, **SEPMs** will advise the Inspector General and supervisors on the employment status and affirmative action goals for women, minorities, and individuals with disabilities.

7. **Employees** will:

a. Treat their coworkers, supervisors and subordinates in a professional manner; maintain an attitude of mutual respect toward all employees; and conform with good EEO and personnel policies, practices, and procedures.

b. Keep informed of all policies and procedures, including the EEO Program, that affect their performance on the job.

c. Bring to the attention of their supervisors instances of discrimination so that the problem might be resolved at the source.

H. Special Emphasis Programs (SEP)

1. The SEPs--Federal Women's, Black, Hispanic, Native American, Disabilities, Asian American--are established as integral parts of the overall EEO Program to enhance the employment, training, and advancement of women, minority groups, and individuals with disabilities.

2. Under the technical supervision of the Director, EEO, SEPMs will:

a. Assist in developing, implementing and evaluating the OIG, DoD, affirmative action plans to ensure inclusion of goals directed toward recruitment, employment and advancement of targeted groups.

b. Advise the Director, EEO, on matters affecting the employment and advancement of targeted groups.

c. Initiate and maintain positive contacts with other Government agencies and private organizations, such as professional groups, colleges, and universities, that are concerned with or have an interest in the employment and career advancement of targeted groups.

d. Assist in counseling members of targeted groups about career opportunities, self-development and continuing education.

e. Encourage management to use a variety of career development strategies, such as upward mobility programs, and restructure positions to provide opportunities for employees who are in lower grades or dead-end positions to progress to their highest potential.

f. Help identify, modify, or eliminate employment barriers and impediments to the recruitment and retention of members of targeted groups

g. Monitor and regularly evaluate the effectiveness of their programs and provide feedback to the Director, EEO, and other officials who may request such information.

h. Represent the Inspector General, DoD, at local and national meetings and conferences on EEO programs.

I. Affirmative Employment Program Plans (AEPP)

1. The OIG, DoD, will submit, annually or as required by the EEOC, affirmative employment plans for women, minorities, and individuals with disabilities. A copy of each will be simultaneously submitted to the Director of Civilian Equal Opportunity, Office of the Assistant Secretary of Defense (Personnel Readiness).

2. The Director, EEO, is responsible for developing the OIG, DoD AEPPs in coordination with supervisors, the Director, P&SD, SEPMS and other action offices.

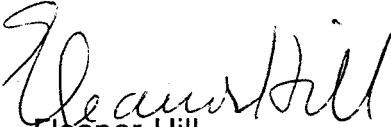
3. Each plan will include work force and goal accomplishment data. It will also identify barriers to the employment and advancement of minorities, women, and other individuals with disabilities.

4. Underrepresentation determination required by the EEOC and OPM in each AEPP will be computed on the basis of census availability data using occupational categories published by the EEOC. Since civilian labor force statistics are not available for individuals with disabilities, underrepresentation will be determined by EEOC or DoD goals, or by measuring the number of people with disabilities hired and/or promoted by the OIG, DoD, over the years.

5. Recruitment plans or initiatives will be developed by the Director, PSD, and included in the AEPP. One set of computations of underrepresentation will serve the purposes of the AEPP and the FEORP. Statistics on disabled veterans and other people with disabilities will also be included.

6. An action plan to prevent sexual harassment in the workplace will be included in the AEPP, reviewed annually and revised as needed (Appendix C).

J. Effective Date and Implementation. This Instruction is effective immediately.


Eleanor Hill
Inspector General

3 Appendices a/s

DISTRIBUTION C

APPENDIX A REFERENCES

- * (a) IGDINST 1020.1, *Processing Complaints of Discrimination*, July 31, 1995
- * (b) Inspector General, DoD, Policy Statement on Equal Employment Opportunity, March 14, 1995
- * (c) Inspector General, DoD, Policy Statement on Sexual Harassment, March 14, 1995
- (d) 29 Code of Federal Regulations, Part 1614, "Equal Employment Opportunity in the Federal Government," April 10, 1992
- (e) Civil Rights Act of 1991, Public Law 102-166, November 21, 1991
- (f) DoD Directive 1440.1, "The DoD Civilian Equal Employment Opportunity Program," May 21, 1987
- (g) DoD Directive 1350.1, "The Department of Defense Military Equal Opportunity Program," April 29, 1987
- (h) The Equal Pay Act, August 20, 1986
- (i) DoD Directive 1020.1, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense," March 31, 1982 (32 CFR 56)
- (j) DoD Human Goals Charter, May 18, 1981 (signed by the Secretary of Defense, Deputy Secretary of Defense, Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff. and Chiefs of Staff of the Military Departments)
- (k) Guidelines on Discrimination Because of Religion, October 31, 1980 (29 CFR 1605)
- (l) Federal Equal Opportunity Recruitment Program, April 13, 1979 (5 CFR 720)
- (m) Civil Service Reform Act of 1978, Public Law 95-454, 5 USC 7201
- (n) Vietnam Era Veterans Readjustment Assistance Act of 1974
- (o) Rehabilitation Act of 1973, Public Law 93-516, as amended, sections 501 and 504
- (p) Executive Order 11478, "Equal Employment Opportunity in the Federal Government," August 8, 1969
- (q) The Age Discrimination in Employment Act of 1967, as amended by Public Laws 92-259, 95-256 and 93-259
- (r) Section 717, Title VII of the Civil Rights Act of 1964, as amended

APPENDIX B DEFINITIONS

- a. **Affirmative Action.** A conscious, deliberate effort taken by an agency and its officials to make certain that qualified women, minorities, disabled veterans, and other people with disabilities are given a full and fair opportunity to be represented in--and progress in--the agency's work force.
- b. **Age.** A prohibited basis for discrimination. Persons protected under age discrimination provisions are those 40 years of age or older, except when a maximum age requirement has been established by statute or the Office of Personnel Management. Foreign nationals employed outside the limits of the United States are not covered by this definition.
- c. **Disabled Veteran.** A person entitled to compensation for disability under laws administered by the Department of Veterans Affairs, or a person whose discharge. or release from active duty was for a disability incurred or aggravated in the line of duty.
- d. **Equal Employment Opportunity.** The right of all persons to work and advance on the basis of merit, ability, and potential, free from social, personal, or institutional barriers of prejudice and discrimination. Equal employment opportunity is the objective of affirmative action programs.
- e. **Minorities.** All persons classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, American Indian, or Alaskan native.
- f. **National Origin.** A prohibited basis for discrimination. An individual's place of origin or his or her ancestor's place of origin or the possession of physical, cultural, or linguistic characteristics of a national origin group.
- g. **People with Disabilities.** A person who has a physical or mental disability that substantially limits one or more major life activities, has a record of such disability or is regarded as having such a disability. For purposes of this instruction, such term does not include any individual who is an alcoholic or drug abuser and whose current use of alcohol or drugs prevents such individual from performing the duty of the job in question, or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or to the safety of others.
- h. **Race.** A prohibited basis for discrimination. Includes all persons classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, American Indian or Alaskan native, and white, as follows:
 - 1. Black (not of Hispanic origin). A person having origins in any of the black racial groups of Africa.
 - 2. Hispanic Origin. A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
 - 3. Asian or Pacific Islander. A person having origin in any of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.
 - 4. American Indian or Alaskan Native. A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.
 - 5. White. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

- i. **Religion.** A prohibited basis for discrimination. Traditional systems of religious, moral, or ethical beliefs--or lack of them--that are sincerely held with the strength of traditional or historical views. The phrase "religious practice" includes both religious observances and practices.
- j. **Sexual Harassment.** Sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by an employee of either sex constitute sexual harassment when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;
 - 2. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or
 - 3. Such conduct has the purpose or effect of interfering with an employee's performance or creating an intimidating, hostile, or offensive environment.
- k. **Targeted Disabilities.** Nine categories of severe disabilities are targeted for emphasis in affirmative action programs for people with disabilities. Those disabilities are: deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limbs and/or spine.

APPENDIX C
PLAN FOR THE PREVENTION OF SEXUAL HARASSMENT IN THE WORKPLACE

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INTRODUCTION

Sexual Harassment. Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating, or offensive working environment.

Sexual harassment is a form of sex discrimination under Title VII of the Civil Rights Act of 1964, as amended.

Equal Employment Opportunity Commission Guidelines regarding sexual harassment may be found in 29 Code of Federal Regulations (C.F.R.), Part 1604.11, on page C-11 of this document.



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
 400 ARMY NAVY DRIVE
 ARLINGTON, VIRGINIA 22202-2884

MAR 14 1995



MEMORANDUM FOR ALL EMPLOYEES, OFFICE OF THE INSPECTOR GENERAL,
 DEPARTMENT OF DEFENSE

SUBJECT: Policy Statement on Sexual Harassment

The policy within the Office of the Inspector General, Department of Defense, denotes that sexual harassment is unacceptable conduct in the workplace and will not be tolerated or condoned.

Sexual harassment is a form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay or career, (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creates an intimidating, hostile or offensive working environment.

Supervisors or managers who use or condone implicit or explicit sexual behavior to control, influence or affect the career, pay or job of a civilian employee or a military member are engaging in sexual harassment. Any civilian employee or military member who makes deliberate or repeated unwelcomed verbal comments, gestures or physical contact of a sexual nature is also engaging in sexual harassment.

Each manager and supervisor is responsible for providing guidance to subordinate employees on what constitutes sexual harassment and how they may seek redress if they believe they are victims. Complaints of sexual harassment should be brought to the attention of an Equal Employment Opportunity (EEO) Counselor or the Director, EEO, Room 520, (703) 604-9708.

Our work environment must be free from unsolicited and unwelcome sexual overtures. Sexual harassment adversely affects both mission accomplishment and productivity in the workplace and is unacceptable conduct. Failure to comply with this policy will be reflected in annual performance appraisals and may lead to loss of benefits and the imposition of penalties.

I am confident that you will abide by the spirit and intent of the policy.

Eleanor Hill
 Eleanor Hill
 Inspector General



THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

22 AUG 1994

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Prohibition of Sexual Harassment in the Department of Defense (DoD)

It remains the policy of the Department of Defense (DoD) that sexual harassment is strictly prohibited in the Armed Forces and the civilian work force. The definition of sexual harassment is as follows:

Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or*
- (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or*
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment*

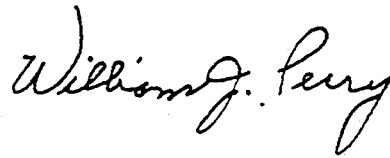
The above definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive [Note: "workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day].

Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

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Attached are initial program guidelines regarding the elimination of sexual harassment in both the military and civilian environments. I have tasked the Defense Equal Opportunity Council Task Force on Discrimination and Sexual Harassment to make additional recommendations to me to eradicate this illegal behavior. These recommendations will result in the adoption of additional sexual harassment program guidelines.

Please ~~send a copy of your implementing instructions to the Under Secretary of Defense (Personnel and Readiness) within 30 days.~~ If you desire assistance or have questions, please contact Mr. Claiborne D. Haughton Jr., Acting Deputy Assistant Secretary of Defense (Equal Opportunity) at (703) 695-0105 or DSN 225-0105.

A handwritten signature in black ink, reading "William J. Perry". The signature is written in a cursive style with a large, stylized "W" and "P".

Attachment:
As stated



THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA



20 JUL 1988

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL
INSPECTOR GENERAL
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
PRESIDENT, UNIFORMED SERVICES UNIVERSITY OF
THE HEALTH SCIENCES
DIRECTOR, OFFICE OF CIVILIAN HEALTH AND MEDICAL
PROGRAM OF THE UNIFORMED SERVICES
COMMANDER, ARMY AND AIR FORCE EXCHANGE SERVICE

SUBJECT: DoD Definition of Sexual Harassment

Please amend your current policies and regulations as necessary to include the following definition of sexual harassment, applicable both to military and civilian personnel of the Department of Defense:

"Sexual harassment is a form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or
- (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or
- (3) such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

"Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment.

37723

Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment."

It remains this Department's firm policy that sexual harassment is unacceptable conduct and will not be condoned or tolerated in any way.

A handwritten signature in black ink, appearing to read "Paul Cullen". The signature is written in a cursive style with a large, stylized initial "P".

**EXCERPT FROM 29 CFR 1604.11,
GUIDELINES ON DISCRIMINATION BECAUSE OF SEX**

1. Sexual Harassment-Definition and Guidelines

a. 29 CFR 1604.11: Definition and Guidelines-Sexual Harassment. The following definition and guidelines on sexual harassment are excerpts from 29 CFR, Part 1604, "Guidelines on Discrimination Because of Sex."

1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of Section 703 of Title VII. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment, regardless of whether the specific acts complained of were authorized or even forbidden by the employer, and regardless of whether the employer knew or should have known of their occurrence. In determining whether an individual acts in either a supervisory or agency capacity, the Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual.

(d) With respect to persons other than those mentioned in paragraph 3 of this appendix, an employer is responsible for acts of sexual harassment in the workplace, whether the employer, its agents or supervisory employees, know or should have known of the conduct. An employer may rebut apparent liability for such acts by showing that it took immediate and appropriate corrective action.

(e) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

b. Office of Personnel Management (OPM) Policy Statement and Definition of Sexual Harassment. The following policy statement and definition of sexual harassment was issued by the OPM on December 12, 1979.

Federal employees have a grave responsibility under the federal code of conduct and ethics for maintaining high standards of honesty, integrity, impartiality, and conduct to assure proper performance of the Government's business and the maintenance of confidence of the American people. Any employee conduct which violates this code cannot be condoned.

Sexual harassment is a form of employment misconduct that undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes in the work productivity of its victims and their coworkers.

Sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as the taking or refusal to process a personnel action, including promotion, for employees who resist or protest sexual overtures.

Specifically, sexual harassment is deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature that are unwelcome.

Within the Federal Government, a supervisor who uses implicit or explicit coercive sexual behavior to control, influence or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, an employee of an agency who behaves in this manner in the process of conducting agency business is engaging in sexual harassment.

Finally, any employee who participates in deliberate or repeated unsolicited verbal comments, gestures or physical contact of a sexual nature that are unwelcome and interfere in work productivity, is also engaging in sexual harassment.

It is the policy of the Office of Personnel Management that sexual harassment is unacceptable conduct in the workplace and will not be condoned. Personnel management within the federal sector shall be implemented free from prohibited personnel practices and consistent with merit system principles, as outlined in the provisions of the Civil Service Reform Act of 1978. All Federal employees should avoid conduct which undermines these merit principles. At the same time, it is not the intent of the Office of Personnel Management to regulate the social interaction or relationships freely entered into by Federal employees.

2. Training. Training will be given to all civilian and military supervisors and managers to sensitize them to the nature and seriousness of the problem of sexual harassment in the work force.

a. Supervisory Personnel

(1) Justification. Civilian and military supervisors and managers of civilian and military personnel should understand the impact of sexual harassment on morale among the personnel they supervise.

(2) Requirements. Civilian and military supervisors of civilian personnel will receive training in the prevention of sexual harassment. That will fulfill the DoD requirement for annual Equal Employment Opportunity (EEO) training.

(3) Responsibility. Training will be offered by the EEO Office, in conjunction with the Personnel and Security Directorate (PSD), Employee Relations Development Division (ERDD). Materials provided by the OPM, the Equal Employment Opportunity Commission (EEOC) and other resources will be used.

b. Non-supervisory Personnel

(1) Justification. Non-supervisory, as well as supervisory personnel, should be made aware of their right to a work environment that is free of sexual harassment, intimidation and other inappropriate nonwork-related behaviors. They also have a right to know where they may receive assistance if they experience inappropriate behavior.

(2) Requirements. Training sessions will be provided to present the Inspector General's (IG) policy on sexual harassment, coping behaviors, and the avenues available to seek redress.

(3) Responsibility. Training will be offered by the EEO/PSD/ERDD staffs, the Federal Women's Program Manager, or other available resources.

c. The EEO Counselors Special Emphasis Program Managers and Other Interested Employees

(1) Justification. The EEO Counselors and Special Emphasis Program Managers serve as valuable resource persons to the EEO program and assist management by ensuring a harmonious work environment.

(2) Requirements. Each special emphasis program manager and EEO counselor will be scheduled to attend at least two of the following programs: "OPM's Workshop on Sexual Harassment" (16 hours); "Training in the Prevention of Sexual Harassment" offered by the Department of Defense, Navy or Army (4 hours); or "Course Manager Training" (24 hours) by the Department of the Army. Other programs that increase awareness of preventing sexual harassment and coping skills may also be offered.

(3) Responsibility. The EEO/P&SD/ERDD staffs and resources from other DoD components will conduct this training.

3. Responsibilities

a. The EEO Office will:

(1) Ensure that all EEO Counselors and Special Emphasis Program Managers are knowledgeable of EEOC guidelines on sexual harassment. The EEO Counselors are available to address any complaints concerning sexual harassment and will attempt to resolve them informally.

(2) Work closely with managers and supervisors to ensure they are knowledgeable of their responsibilities to maintain a work environment free of sexual harassment.

(3) Publish and distribute the Inspector General's policy statement and EEO guidelines on sexual harassment.

(4) Provide sexual harassment awareness and prevention training to supervisory, nonsupervisory and other civilian and military personnel.

(5) Advise the Inspector General (or the appropriate designee) of any problems concerning sexual harassment that cannot be resolved informally.

b. The PSD will:

(1) Assist the EEO Office with administrative details connected with the training of supervisors, managers and employees. The ERDD will assist the EEO in monitoring the training effort.

(2) Work closely with the EEO Office on any grievances that arise due to sexual harassment. The Employee Relations Branch (ERB) will have responsibility for this action.

(3) Include sexual harassment training in the new employee orientation sessions.

c. OIG Component Heads, managers and supervisors will:

(1) Inform personnel of the Inspector General's policy denouncing sexual harassment in the workplace.

(2) Advise all personnel of their obligation to support management's policies and good human relations practices in preventing, removing, reporting, and correcting inappropriate behavior in the workplace.

4. Preventive Measures. The OIG Component Heads, managers and supervisors may consider the following measures as aids to the elimination of sexual harassment.

- a. Disseminate the Inspector General's policy statement on sexual harassment to the work force.
- b. Ensure that subordinates know the policy on sexual harassment, and that it is consistent with OIG, DoD, policy.
- c. Provide a workable mechanism for the prompt reporting of complaints.
- d. Include, within that mechanism, a rapid warning for the supervisor or employee involved.
- e. Provide for the complainant's anonymity, if requested.
- f. Emphasize that sexual harassment is a serious problem.

MILESTONE CHART		
Objective	Specific Actions	Milestones
A. Inform work force of Inspector General's position regarding sexual harassment	<p>Reissue October 1992 Policy Statement when new IG arrives.</p> <p>Include "Plan for Prevention of Sexual Harassment" as an Appendix to IGDINST 1440.1 and as a Supplement to the FY 1994 "Affirmative Employment Program Accomplishment Report."</p> <p>Implement the IG "Plan for the Prevention of Sexual Harassment."</p>	<p>March 1995.</p> <p>December 1994.</p> <p>Annually beginning December 1990.</p>
B. Train managers, supervisors and employees on sexual harassment and their responsibilities for preventing and dealing with it.	<p>Include training in New Employee Orientation training and in managerial and supervisory training conducted by the EEO Office.</p> <p>Conduct supervisory training sessions.</p> <p>Conduct non-supervisory training sessions.</p>	<p>Beginning November 1990 and continuing until all employees receive training</p> <p>Beginning January 1991 and continuing, as required.</p> <p>Beginning January 1992 and continue as required.</p>
C. Inform IG employees about courses of action available to them if they believe sexual harassment has occurred.	<p>Train EEO and other interested personnel and management officials.</p> <p>Include training in the prevention of sexual harassment as a topic at the IG Program Review.</p>	<p>Beginning January 1991 and continuing, as required.</p> <p>Beginning January 1991 and continuing, as required.</p>